

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TERRANCE GAGE,

Plaintiff,

Case No. 22-cv-364-pp

v.

PROGRESSIVE UNIVERSAL INSURANCE COMPANY,

Defendant.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT'S MOTION TO
DISMISS (DKT. NO. 10)**

On May 18, 2022, the defendant filed a motion for partial dismissal of the complaint under Federal Rule of Civil Procedure 12(b)(6). Dkt. No. 10. The defendant argues that three of the plaintiff's four claims should be dismissed. Dkt. No. 11 at 5. The defendant says that the plaintiff fails to state a claim for breach of the covenant of good faith and fair dealing, that the plaintiff cannot pursue an independent claim for unjust enrichment, and that the plaintiff fails to state a claim for declaratory relief. Id. at 5-6.

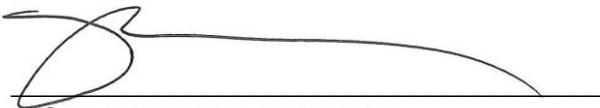
Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion he must do so within twenty-one days—that is by June 8, 2022. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that he has another option—he may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015) (explaining that

a responsive amendment may avoid the need to decide the motion or reduce the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by June 8, 2022 the plaintiff shall file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 19th day of May, 2022.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge